

NOTICE OF MOTION**Appeal of Committee of Adjustment Decision and Request for Legal Staff and Outside Planning Consultant's Attendance at the Ontario Municipal Board - B0016/08NY, A0124/08NY and A0125/08NY –
1 Carluke Crescent**

Moved by: Councillor Jenkins

Seconded by: Councillor Walker

SUMMARY:

An application to the Committee of Adjustment, North York Panel, for the division of a parcel of residential lands into two parts for conveyance purposed for the creation of a new building lot was refused by the Committee on April 9, 2008. The owner also sought variances for the existing and newly created lot which included variances for lot frontage; lot area; side yard setback and lot coverage. These variances were also refused by the Committee of Adjustment.

Residents who attended the meeting successfully argued that the larger lots on the south side of the Carluke Crescent island, namely 1, 3 and 5 Carluke, were more representative of the larger lots in the R2 zone on Fifeshire Road than the smaller R3 lots on the north side of the island. The Committee agreed with the residents and refused the application. This division of property would clearly set the tone for additional requests in the neighbourhood where lot frontages in some cases exceed 200 feet.

There are few large lot communities left in the City and these should be protected.

The City's new Official Plan speaks directly to this issue in Policy 4.1.5 which states:

“Development in established Neighbourhoods will respect and reinforce the existing physical character of the neighbourhood.”

The owners have appealed this decision to the Ontario Municipal Board. The Board has not scheduled a hearing date for this application. Staff did not report on this application.

As the Councillor representing this community, I request that Legal staff attend the Ontario Municipal Board hearing and that an outside Planning Consultant be retained to defend the Committee of Adjustment decision.

RECOMMENDATION:

1. That Council authorize the City Solicitor to retain outside Planning Consultants and to attend the Ontario Municipal Board Hearing to uphold the decision of the Committee of Adjustment.

May 26, 2008

Attachments

According to Chapter 27, Council Procedures:

| | |
|---|-----|
| Notice given | (v) |
| Fiscal Impact Statement provided | |
| Should have Fiscal Impact Statement prior to debate Requires two-thirds to waive requirement if Council wishes to debate | * |
| Should be referred to North York Community Council Requires two-thirds vote to consider at this meeting | (v) |
| Motion Recommendations are Urgent - OMB | (v) |

* Deputy City Manager and Chief Financial Officer to advise.

Wednesday, April 9, 2008

**NOTICE OF DECISION
MINOR VARIANCE/PERMISSION
(Section 45 of the Planning Act)**

| | | | |
|--------------------|--|------------|--|
| File Number: | A0125/08NY | Zoning | R2 - Single Family Detached Dwelling Zone (WAIVER) |
| Owner(s): | ABID RIZVI | Ward: | Don Valley West (25) |
| Agent: | JOHN BENCZKOWSKI SOL ARCH | | |
| Property Address: | 1 CARLUKE CRES – EAST 19.33M (PART 2) | Community: | North York |
| Legal Description: | PLAN M866 LOT 555 | | |

Notice was given and a Public Hearing was held on Wednesday, April 9, 2008, as required by the Planning Act.

PURPOSE OF THE APPLICATION:

This is an application under Section 45 of the Planning Act, for variance from the provisions of the North York Zoning By-law 7625, as amended, to permit the construction of a new two storey dwelling on the east 19.33m of above noted property. The existing dwelling would be demolished.

REQUESTED VARIANCE(S) TO THE ZONING BY-LAW :

1. Proposed lot area of 709.45m²
WHEREAS a minimum lot area of 1,375m² is required;
2. East side yard setback of 1.59m to the proposed dwelling
WHEREAS a minimum setback of 2.4m is required;
3. West side yard setback of 1.2m to the proposed dwelling
WHEREAS a minimum setback of 2.4m is required; and
4. Proposed lot coverage of 32.5% (230.57m²)
WHEREAS a maximum lot coverage of 30% (212.84m²) is permitted.

IT WAS THE DECISION OF THE COMMITTEE OF ADJUSTMENT THAT:

The Minor Variance Application is Refused

It is the decision of the Committee of Adjustment to **NOT** approve this variance application for the following reasons:

- The general intent and purpose of the Official Plan is not maintained.

- The general intent and purpose of the Zoning By-law is not maintained.
- The variance(s) is not considered desirable for the appropriate development of the land.
- In the opinion of the Committee, the variance(s) is not minor.

Wednesday, April 9, 2008

NOTICE OF DECISION

CONSENT

(Section 53 of the Planning Act)

| | | | |
|--------------------|------------------------------|------------|---|
| File Number: | B0016/08NY | Zoning | R2 - Single Family Detached Dwelling Zone |
| Owner(s): | ABID RIZVI | Ward: | Don Valley West (25) |
| Agent: | JOHN BENCZKOWSKI SOL ARCH | | |
| Property Address: | 1 CARLUKE CRES | Community: | North York |
| Legal Description: | PLAN M866 LOT 555 | | |

Notice was given and the application considered on Wednesday, April 9, 2008, as required by the Planning Act.

THE CONSENT REQUESTED:

This is an application under Sections 50, 53 and 54 of the Planning Act, for the consent of the Committee of Adjustment, to the division of a parcel of residential lands into two parts for conveyance purposes for the creation of a new building lot.

The lands concerned are irregular in shape, having 43.28m fronting onto the north side of Carluke Crescent, a depth along the east lot line of 35.97m, a depth along the west lot line of 37.31m and an area of 1,425.5m². The lands are described as Lot 555, Registered Plan M-866 and are designated as Parts 1 and 2 on the plan prepared by Rabideau & Czerwinski, Ontario Land Surveyors, and attached to this notice. The lands presently contain the dwelling municipally known as 1 Carluke Crescent, which would be demolished.

It is proposed to divide the lands into two parts for the creation of a new residential building lot.

The lands to be severed, being Part 1 on the attached plan, would have 23.95m fronting onto the north side of Carluke Crescent, a depth along the east lot line of 36.58m, a depth along the west lot line of 37.31m and an area of 716.05m².

The lands to be retained, being Part 2 on the attached plan, would have 19.33m fronting onto the north side of Carluke Crescent, a depth along the east lot line of 35.97m, a depth along the west lot line of 36.58m and an area of 709.45m².

A new two storey dwelling is proposed to be constructed on each of the proposed lots.

This application is being considered in conjunction with Minor Variance applications A0124/08NY and A0125/08NY.

IT WAS THE DECISION OF THE COMMITTEE OF ADJUSTMENT THAT:

The Consent Application is Refused

In the opinion of the Committee, the application does not satisfy the requirements of Section 51(24) of the Planning Act and is **NOT** approved for the following reason(s):

- The proposed land division is premature.
- The proposed land division does not conform to the policies of the official plan.
- The suitability of the land for the purposes for which it is to be subdivided has not been demonstrated.
- The suitability of the dimensions and shapes of the proposed lots has not been demonstrated.
- The adequacy of roads, vehicular access, parking and loading facilities has not been demonstrated.
- The adequacy of utilities and municipal services has not been demonstrated.

SIGNATURE PAGE

| | | | |
|--------------------|------------------------------|------------|---|
| File Number: | B0016/08NY | Zoning | R2 - Single Family Detached Dwelling Zone |
| Owner(s): | ABID RIZVI | Ward: | Don Valley West (25) |
| Agent: | JOHN BENCZKOWSKI SOL ARCH | | |
| Property Address: | 1 CARLUKE CRES | Community: | North York |
| Legal Description: | PLAN M866 LOT 555 | | |

David Peacock (signed)

Donna McCormick
(signed)

Isaac Lallouz (signed)

Jason Tsang (signed)

Virginia A. Solomon
(signed)

DATE DECISION MAILED ON: Thursday, April 17, 2008

LAST DATE OF APPEAL TO THE ONTARIO MUNICIPAL BOARD: Tuesday, May 6, 2008

CERTIFIED TRUE COPY

Denise Rundle (signed)
Manager & Deputy Secretary Treasurer
North York Panel

To appeal this decision to the Ontario Municipal Board, send a completed OMB Appellant Form (A1) to the Manager & Deputy Secretary-Treasurer, Committee of Adjustment. You must pay a filing fee of \$125.00, by certified cheque or money order, in Canadian funds, payable to the Minister of Finance. An additional reduced fee of \$25.00 is required for each connected appeal filed by the same appellant. To obtain a copy of Appellant Form (A1) and other information about the appeal process please visit the Ontario Municipal Board web site at www.omb.gov.on.ca.

NOTE: Only individuals, corporations and public agencies may appeal a decision to the Ontario Municipal Board. The appeal may not be filed by an unincorporated association or group. However, the appeal may be filed in the name of an individual who is a member of the association or group on its behalf.

Wednesday, April 9, 2008

**NOTICE OF DECISION
MINOR VARIANCE/PERMISSION
(Section 45 of the Planning Act)**

| | | | |
|--------------------|--|------------|--|
| File Number: | A0124/08NY | Zoning | R2 - Single Family Detached Dwelling Zone (WAIVER) |
| Owner(s): | ABID RIZVI | Ward: | Don Valley West (25) |
| Agent: | JOHN BENCZKOWSKI SOL ARCH | | |
| Property Address: | 1 CARLUKE CRES – WEST 22.34M – PART 1 | Community: | North York |
| Legal Description: | PLAN M866 LOT 555 | | |

Notice was given and a Public Hearing was held on Wednesday, April 9, 2008, as required by the Planning Act.

PURPOSE OF THE APPLICATION:

This is an application under Section 45 of the Planning Act, for variance from the provisions of the North York Zoning By-law 7625, as amended, to permit the construction of a new two storey dwelling on the west 22.34m of above noted property. The existing dwelling would be demolished.

REQUESTED VARIANCE(S) TO THE ZONING BY-LAW :

1. Proposed lot frontage and width of 22.34m
WHEREAS a minimum lot frontage and width of 24m is required;
2. Proposed lot area of 716.05m²
WHEREAS a minimum lot area of 1,375m² is required;
3. East side yard setback of 1.28m to the proposed dwelling
WHEREAS a minimum setback of 2.4m is required;
4. West side yard setback of 1.49m to the proposed dwelling
WHEREAS a minimum setback of 2.4m is required; and
5. Proposed lot coverage of 32.9% (235.58m²)
WHEREAS a maximum lot coverage of 30% (214.82m²) is permitted.

IT WAS THE DECISION OF THE COMMITTEE OF ADJUSTMENT THAT:

The Minor Variance Application is Refused

It is the decision of the Committee of Adjustment to **NOT** approve this variance application for the following reasons:

- The general intent and purpose of the Official Plan is not maintained.
- The general intent and purpose of the Zoning By-law is not maintained.
- The variance(s) is not considered desirable for the appropriate development of the land.
- In the opinion of the Committee, the variance(s) is not minor.

